

TENNESSEE HAZARDOUS WASTE FACILITY SITING PROVISIONS

Topics

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Relevant Statutes and Regulations:

- G *Tennessee Code Annotated*, 1992 Replacement, Volume 3A.
- G *Tennessee Code Annotated*, 1996 Supplement, Volume 3A, 1992 Replacement.
- G *Tennessee Code Annotated*, 1992 Replacement, Volume 12A
- G *Tennessee Code Annotated*, 1995 Supplement, Volume 12A, 1992 Replacement.
- G Rules of Department of Environment and Conservation, Division of Solid Waste Management, Chapter 1200-1-11, Hazardous Waste Management, Revision "O", Effective: August 19, 1995.
- G Rules of Tennessee Department of Environment and Conservation, Division of Solid Waste Management, Chapter 1200-1-14, Commercial Hazardous Waste Management Facilities, Effective: February 13, 1994.
- G <http://www.state.tn.us/environment/swm/swmregs/index.html> has the solid and hazardous waste regulations

Other Relevant State Documents:

- G None.

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Web Address for the State Environmental Agency

G <http://www.state.tn.us/environment/>

Affected Facilities:

- G Commercial facilities proposing to modify their permit to allow the addition of new land-based or thermal treatment units
- G New commercial hazardous waste management facilities (includes both land-based and non-land-based units, see 1200-1-14-.03(1)(a)(1))
- G Portable commercial unit
- G Non-commercial facilities who are proposing to modify their permit to allow commercial operation (1200-1-14-.02(1)(b))

Definitions of Facility Types:

- G “Commercial facility” means any hazardous waste management facility that stores, treats or disposes of hazardous waste generated off-site. However, a facility that shall not be deemed to be a commercial facility if the only hazardous waste that it receives from off-site is either:
 - (A) hazardous waste generated from material manufactured by a corporation, generated only at a site or sites owned or operated by the same manufacturing corporation, or subsidiaries of such corporation, or product distribution sites under contract to such corporation; provided, that the volume of hazardous waste received from such sites and placed in storage for more than thirty (30) days does not exceed ten percent (10%) of the permitted or interim status storage capacity at the facility; and provided further, that during no annual period may more than ten percent (10%) of the total hazardous waste treated or disposed at the facility be from such sites; or
 - (B) mixed hazardous waste (hazardous waste that is also regulated as a radioactive material) that is received for storage and treatment (but not disposal or incineration) pursuant to an order, compliance plan or similar plan or agreement in which such receipt for storage and treatment is specifically approved by the commissioner or board; provided, that any such order, compliance plan or similar plan or agreement also requires that the ultimate land disposal of such mixed hazardous waste or waste from its treatment be at a commercial facility permitted under this part or a properly authorized facility in another jurisdiction.
- G “New commercial hazardous waste management facility” or “new commercial facility” means any commercial facility which is not: (1) an existing facility, or (2) an already permitted facility, or (3) a facility for which the permit application required by Rule 1200-1-11-.07 was filed with the Department on or before July 1, 1989, or (4) a planned facility which was under review by the Department in anticipation of the filing of an application on or before July 1, 1989.
- G “Land-based unit” means a unit subject to Rule 1200-1-11-.06(6) including surface impoundments, landfills, waste piles, land treatment units, and hazardous waste management units subject to Rule 1200-1-11-.06(19). Units exempt from groundwater monitoring correction requirements under Rule 1200-1-11-.06(6)(a)2 and covered indoor waste piles in compliance with Rule 1200-1-11-.06(12)(a)3 are considered non-land-based units.
- G “Non-land-based units” means an incinerator, tank and its associated piping and underlying containment system, or container storage area, and other units not

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subject to Rule 1200-1-11-.06(6). Non-land-based unit also means those hazardous waste management units regulated under Rule 1200-1-11-.06(19) that are not subject to Rule 1200-1-11-.06(6).

- G** “Unit” or “Hazardous waste management unit” is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.
- G** “Portable commercial unit” means any commercial facility which is transportable from site to site for the purpose of storage, treatment or disposal of hazardous waste.

Note: The criteria in Chapter 1200-1-14.03(1)(b)2 and 3 apply to new commercial facilities in addition to the facility standards of Rule 1200-1-11-.06. In the event of any overlap or conflict between these criteria and standards, the more stringent requirements shall apply. These differences are noted. The information required in 1200-1-14.03(1)(b)(4) must be submitted as part of, or along with, the Part B permit application described in Rule 1200-1-11.07(5). However, those portions of the documentation submitted in compliance with 1200-1-14.03(1)(b)(4) must be clearly identifiable and separable.

Permit Modification

Tennessee incorporates 40 CFR 270.42 by reference, including all of the public participation requirements. These permit modification requirements were not included in these tables because they do not affect siting as directly as the permit issuance requirements.

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Topic	Stage ¹	State citation ²	Provision
ADMINISTRATION			
STATE ADMINISTERING AGENCY			
Responsibilities of the Commissioner		<i>[68-212-108]</i>	In the event the local governing body makes a report to the department 90 days after the community meeting, the Commissioner may affirm the decision of the local governing body, or may reverse or modify the decision if the decision is: <ul style="list-style-type: none"> C In violation of statutory provision; C In excess of the statutory authority of the agency or the local governing body; C Made upon unlawful procedure; C Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; C Unsupported by evidence which is both substantial and material in the application and report; or C Contrary to the conditions or criteria set forth in § 68-212-107(d)(10) (siting criteria addressed below).
		1200-1-14-.02(3)(d)3; 1200-1-11-.07(7)(b)(3)	The Commissioner shall visit the proposed facility site to verify the site description provided in the application. The applicant and appropriate local community officials shall be notified of these scheduled site visits.
		1200-1-14-.02(3)(m)	The Commissioner shall notify the applicant, the appropriate local community officials, and each person who has submitted written comments or requested notice of the final permit decision. The decision shall become effective upon the date of the service of notice of the decision to the applicant unless a later date is specified in the decision. At that time, the Commissioner shall issue a response to comments. This response shall specify which provision, if any, of the draft permit have been changed in the final permit decision and the reasons for the change and briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any public hearing.

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Solid waste disposal control board	NA	<i>[68-212-104(1)]</i> <i>[68-212-107(c)-(e)]</i> <i>[68-212-217]</i>	The board is authorized to request the commissioner to investigate, inspect and obtain samples from hazardous waste facilities. It is also authorized to promulgate and adopt rules and regulations required to implement the hazardous waste management program, including location, design, construction, operation, maintenance, closure, and post-closure of hazardous waste facilities. The board is authorized to act as the board of appeals to review actions of the commissioner arising from the implementation of the hazardous waste management program. The board by rules and regulations shall develop a procedure for public hearings and comment to be conducted in conjunction with the granting of permits for a commercial landfill facility for the disposal of hazardous wastes. Information concerning facilities to be permitted shall be available to the public upon request if not designated as proprietary. The information and testimony presented by the public shall be considered by the commissioner and the board prior to granting a permit.
THE INTERAGENCY COORDINATING COUNCIL			
No provisions found.			
INDEPENDENT SITING BOARD			
No provisions found.			

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Topic	Stage ¹	State citation ²	Provision
LOCAL COMMUNITY NEEDS AND INVOLVEMENT			
LOCAL REVIEW/INVOLVEMENT			
Notice of permit denials, draft permits, hearings and appeals	PA PDP	1200-1-11-.07(7)(e)3	Public notices for permit denials, draft permits, hearings and appeals shall be mailed to any unit of local government having jurisdiction over the area where the proposed facility is to be located.
Draft permit	PDP	1200-1-14-.02(3)(e)7	Prior to issuance, the Commissioner shall provide a copy of the draft permit or notice of intent to deny the permit to appropriate local community officials.
Local Community Input	PA	[68-212-108(f)] 1200-1-14-.02(3)(k)	In addition to commenting during the public comment period, local communities may have input into the permit decision-making process by submission of a report.

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Information requirements for local governing body reports		[68-212-108(f)(2)]	<p>The local governing body report shall include a decision to accept, reject, or modify the application and shall be based on the application of the following criteria:</p> <ul style="list-style-type: none"> C the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding area; C the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents; C the traffic patterns and the capacity of roads and bridges to or from the facility are so designed as to minimize the impact on existing traffic flows; C an emergency response plan has been formulated by or for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release; C if the facility is to be located in a county where the county or municipality has adopted a hazardous or solid waste management plan, the facility should be consistent with that plan; C distances from occupied dwellings, including, but not limited to, private residences, schools, churches, commercial buildings, and other buildings not associated with the facility, and scenic, cultural and recreational areas so as to minimize the adverse economic impacts on the local community and the surrounding communities; C the facility is located so that public health, safety and welfare will be protected; C the previous operating experience and past record of convictions relevant to the operation of a proposed facility, or admissions of violations, other than minimal nonwillful permit violations, of the applicant and any subsidiary or parent corporation operating in the field of solid or hazardous waste management; and C the conditions or criteria provided for in 68-212-107(d)(10) (specific siting criteria addressed below). <p>Failure to submit this report within 90 days shall be deemed a waiver of the right to submit such a report. The Commissioner may affirm the decision of the local governing body, or may reverse or modify the decision</p>

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OTHER AGENCY OR GOVERNMENTAL ENTITY INVOLVEMENT			
Public Notice of Permit Actions and Public Comment Period	PA	1200-1-14-.02(3)(g)3(i)(IV)	Public notice of activities shall be given to each State agency having any authority under State law with respect to the construction a facility.
Notice of permit denials, draft permits, hearings and appeals	PDP	1200-1-11-.07(7)(e)3(i)(III)&(IV)	Public notices for permit denials, draft permits, hearings and appeals shall be given by mailing a copy to any unit of local government having jurisdiction over the area where the facility is or is proposed to be located, and each State agency having authority under State law with respect to the construction or operation of the facility.
COMPATIBILITY OF FACILITY SITE WITH LOCAL SOLID WASTE MANAGEMENT PLANS			
Information requirements for local governing body reports	PA	[68-212-108(f)(2)(E)]	If the facility is to be located in a county where the county or municipality has adopted a hazardous or solid waste management plan, the facility should be consistent with that plan.
IMPACT OF FACILITY ON LOCAL LAND USE			
No provisions found.			

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PUBLIC PARTICIPATION			
The federal regulations regarding the public participation process for the permitting of hazardous waste (RCRA) facilities can be viewed at http://earth1.epa.gov/epacfr40/chapt-I.info/subch-D/40P0124.pdf within the Part 124 Procedures for Decisionmaking. (State regulations cannot be less stringent than the federal counterparts.)			
NOTIFICATION			
Preliminary Notice	PA	<i>[68-212-108(f)(1)]</i> 1200-1-14-.02(3)(a) 1200-1-14-.02(3)(g)4(iii) 1200-1-11-.07(7)(a)	The department shall give public notice of an application for a permit for a commercial facility within thirty (30) days of its receipt. The preliminary public notice issued regarding a Part A permit application shall contain the information required for a general public notice plus a brief description of the permitting procedures that will be followed, focusing especially upon the opportunities for public participation in the process. A preliminary public notice issued regarding a Part B permit application shall contain the information required for a general public notice, plus the time and location of the community meeting(s) required.
Draft permit notice	PA	1200-1-14-.02(3)(e) 1200-1-11-.07(7)(b)1	The Commissioner shall issue the notice of intent to deny or issue the draft permit within 45 days after notifying the applicant that his application was complete. The 45-day time limit shall be automatically extended a period of time equal to the time it takes for the applicant to submit information if the Commissioner requests additional information.
Fact Sheets	PDP	1200-1-14-.02(3)(f)3 1200-1-11-.07(7)(d)3	A fact sheet shall be sent to the applicant, to appropriate local community officials, and on request, to any other person.

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Notification of opportunity to be put on mailing list	PA PDP PP	1200-1-11-.07(7)(e)3(i) (V)III	As part of the development of the mailing list, the Commissioner notifies the public of the opportunity to be put on the list to receive public notices through periodic publication in the public press and in other publications deemed appropriate by the Commissioner. (Same as 40 CFR 124.10(c)(1)(ix)) The Commissioner may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Commissioner may delete from the list the name of any person who fails to respond to such a request.
When Public Notice of Permit Actions and Public Comment Period Are Required	PA PDP	1200-1-14-.02(3)(g)1(i) 1200-1-11-.07(7)(e)1 1200-1-11-.07(9)(d)2(iii)	The Commissioner shall give public notice that the following actions have occurred: C A Part A permit application has been received; C A Part B permit application has been received; C A notice of intent to deny a permit has been prepared; C A draft permit has been prepared; C A notice of intent to terminate a permit; C A permit denial; or C A public hearing has been scheduled.
Notice of Intent to Deny a Permit	PA PDP	1200-1-14-.02(3)(g)2(i) 1200-1-11-.07(7)(e)3(i)	Public notice of the preparation of a notice of intent to deny a permit or a draft permit, shall allow at least 45 days for public comment.
Notice of Public Hearing	PDP	1200-1-14-.02(3)(g)2(ii) 1200-1-11-.07(7)(e)2(i)	Public notice of a public hearing shall be given at least 30 days before the hearing.

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Methods of Public Notice	PA PDP	1200-1-14-.02(3)(g)3 1200-1-11-.07(7)(e)3	<p>These public notices shall be given by the following methods;</p> <ul style="list-style-type: none"> C mailing a copy of a notice to the applicant, C any other agency which the Commissioner knows has issued or is required to issue an environmental permit for the same facility or activity, C all appropriate local community officials, each State agency having any authority under State law with respect to the construction or operation of such facility; or C persons on a mailing list developed by: <ul style="list-style-type: none"> C including those who request in writing to be on the list, C soliciting persons for “area lists” from participants in past permit proceedings in that area; and C notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in other publications deemed appropriate by the Commissioner. <p>Public notice of activities shall be given by publication of a notice in a daily or weekly major local newspaper or general circulation and broadcast over local radio stations. The applicant shall reimburse the Department for the expense of these public notices. The Commissioner may use any other method deemed necessary or appropriate to give actual notice of the action in question to the persons potentially affected by it.</p>

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Minimum General Public Notice Information	PA PDP	1200-1-14-.02(3)(g)4 1200-1-11-.07(7)(e)4	<p>These general public notices shall contain the following minimum information:</p> <ul style="list-style-type: none"> C Name and address of the office processing the permit action for which notice is being given; C Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit; C A brief description of the business conducted at the facility or activity described in the permit application; C A brief description of the comment procedures required and the time and place of any public hearing that will be held, and other procedures by which the public may participate in the final permit decision; C Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of draft permits and fact sheets; and C Any addition information considered necessary or proper.
Additional Information for Public Notices for Public Hearing	PDP	1200-1-14-.02-(3)(g)4(ii) 1200-1-11-.07(7)(e)4(ii)	<p>In addition to the general public notice information, the public notice of a public hearing shall contain the following additional information:</p> <ul style="list-style-type: none"> C Reference to the dates of previous public notices relating to the permit action; C Date, time and place of the public hearing; and C A brief description of the nature and purpose of the public hearing, including the applicable rules and procedures.
Final Permit Decision	PDP	1200-1-11-.07(7)(i)	<p>A final decision shall be issued within 60 days after the close of the comment period. The Commissioner shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. A final permit decision shall become effective 30 days after the date of the service of this notice of decision, unless otherwise specified.</p>
Reopening of the Public Comment Period	PDP	1200-1-14-.02(3)(j) 1200-1-11-.07(7)(h)	<p>The public notice for reopening of a public comment period shall define the scope of the reopening.</p>

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No public notice required for denials of requests for permit modifications, revocation and reissuance, or termination	PP	1200-1-11-.07(7)(e)1(ii)	Denials of requests for permit modification, revocation and reissuance, or termination are not subject to public notice.
PUBLIC COMMENTS			
Community Meeting Reports Written By Local Governing Bodies	PDP	<i>[68-212-108(f)(1)]</i> 1200-1-14-.02(3)(k)	Local governing bodies participating in the community meeting shall have the opportunity to prepare reports representing their interpretation of the concerns of the community, and shall submit such reports to the department within ninety (90) days after the community meeting. Failure to submit such a report will be deemed a waiver of the right of such local governing body to submit such report.
Public Comments and Requests for Public Hearings	PDP	1200-1-14-.02(3)(i) 1200-1-11-.07(7)(f)&(g)	<p>During the public comment period provided, any interested person may submit written comments on the draft permit. All comments shall be considered in making the final decision and shall be answered as provided.</p> <p>Note: The provisions at 1200-1-14-.02(3)(i) require a public hearing in all circumstances when a public notice is required (see Public Notice of Permit Actions and Public Comment Period above) and therefore eliminate 1200-1-11-.07(7)(f)&(g) provisions, which allow for requests for public hearings if none are scheduled. Therefore, no requests for hearings are needed since adoption of the 1200-1-14-.02(3)(i) provisions.</p>

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Reopening of the Public Comment Period	PDP	1200-1-14-.02(3)(j) 1200-1-11-.07(h)	<p>If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit action, the Commissioner may (at his discretion or as directed by the Board) take one or more of the following actions:</p> <ul style="list-style-type: none"> C Prepare a new draft permit, appropriately modified; C Prepare a fact sheet or revised fact sheet and reopen the comment period; or C Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted. <p>Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice shall define the scope of the reopening.</p>
Response to Comments	PDP PP	1200-1-14-.02(3)(m)2 1200-1-11-.07(7)(j)2	The response to comments issued by the Commissioner at the time that a final permit is issued shall be made available to the public.
Public comment period after notice of hearing	PA PDP PP	1200-1-14-.02(3)(g)2(ii)	At least 30 days for public comment is required after public notice of a public hearing .
Public comments at hearings	PDP	1200-1-14-.02(3)(i)2	For hearings, any person may submit oral or written statements and data concerning a draft permit. Reasonable time limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required.

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PUBLIC MEETINGS			
Community meeting	PA	<i>[68-212-108(f)]</i> 1200-1-14-.02(3)(c)	<p>The commissioner shall hold a community meeting concerning such a permit application within forty-five (45) days of the publication of the public notice that the application has been received. Represented at the meeting shall be:</p> <ul style="list-style-type: none"> C the county legislative body of the county in which the facility is proposed, and C the governing body of any municipality within one (1) mile of the proposed facility. <p>Failure to participate shall be deemed as a waiver and shall not invalidate the meeting.</p> <p>The applicant must be adequately represented by one or more persons knowledgeable of the proposed facility, and such representative(s) must participate in, any such meeting in order for it to be considered held.</p>

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PUBLIC HEARINGS			
Hearing as a result of a final decision	PDP PP	<i>[68-212-113(a)(1)-(3)]</i> 1200-1-14-.02(3)(n) 1200-1-11-.07(7)(k)	Any person against whom an order is issued, a permit application denied, or who is aggrieved by a final decision of the commissioner may secure a review of the necessity for or reasonableness of such order by filing with the commissioner a written petition, setting forth the grounds and reasons for such person's objections and asking for a hearing in the matter involved before the board. Any such order, shall become final and not subject to review unless the person or persons named therein shall file such petition for a hearing before the board no later than thirty (30) days after the date such order is served. An aggrieved person is limited to persons applying for permits, persons who own property or live within a three mile radius of the facility or site that is proposed, cities and counties which have authority to submit reports regarding proposed facilities, and any resident of any such city or county.
	PDP	1200-1-14-.02(3)(i) 1200-1-11-.07(7)(g)	<p>In the event the commissioner fails to take any action on a permit application of proposed amendment to a permit for a facility within forty-five days of submission to the proper authority, the person having submitted such application may appeal to the board as though the application was denied. The petition shall recite the failure of the commissioner to act on the application.</p> <p>The Commissioner shall hold at least one public hearing on each draft permit issued for a new commercial facility. Such hearings shall follow and be separate from the community meeting required. Whenever possible, the Commissioner shall schedule the hearing at a location convenient to the nearest population center to the subject facility. It shall be held within the public comment period established and at least one week prior to the scheduled close of such comment period. The Hearing Officer may also extend the comment period by so stating at the hearing. Any person may submit oral or written statements and data concerning the draft permit. A tape recording or written transcript of the hearing shall be made available to the public.</p>

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ADJUDICATORY HEARINGS			
Judicial Review		<i>[68-212-113(c)]</i>	An appeal may be taken from any final order or other final determination of the board by any party, including the department, who is or may be adversely affected thereby to the chancery court of Davidson County. The chancery court of Davidson County shall have exclusive original jurisdiction of all review proceedings instituted.
OTHER			
Local Repository	PA	1200-1-14-.02(3)(b)	Within 30 days after the date of receipt of the permit application, the Commissioner shall cause documentation of the permit application to be placed in a library or other local repository, including relevant information and significant correspondence between the Department and the applicant. Such information shall be maintained in the local repository until either a final permit decision is reached or the permit application is withdrawn. If a final permit is issued, the Commissioner shall cause to be placed permanently in the local repository a copy of the final permit and the response to comments required by the permitting process.
Solicitation of persons to be placed on mailing list	PA PDP PP	1200-1-11-.07(7)(e)3	As part of the development of a mailing list of individuals to receive notices, the Commissioner solicits persons for “area lists” from participants in past permit proceedings in that area. (Same as 40 CFR 124.10(c)(1)(ix)(B))
Request to be placed on mailing list	PA PDP PP	1200-1-11-.07(7)(e)3	A person may request, in writing, to be placed on a mailing list to receive notices of permit actions. (Same as 40 CFR 124.10(c)(1)(ix)(C))

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Topic	Stage ¹	State citation ²	Provision
SITING RESTRICTIONS AND PROHIBITIONS			
Federal siting restrictions and prohibitions can be viewed at http://www.epa.gov/epacfr40/chapt-I.info/subch-I/ by selecting “Part 264 (Updated 1997) - Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”. The regulatory requirements are in Location Standards at 264.18 in the document. (State regulations cannot be less stringent than the federal counterparts.)			
SOIL AND WATER			
Karst Terrain restrictions	PA	1200-1-14-.03(2)(d)3	<p>New land-based units shall not be located in a karst terrain unless the owner or operator demonstrates, to the satisfaction of the Commissioner, that:</p> <ol style="list-style-type: none"> the site hydrogeologic characterization requirements of part (4)(h)1 have been met; The media-specific requirements for groundwater under part (e)1 have been met, and that groundwater can be effectively monitored and corrective action can be effectively implemented to prevent the rapid spread of contaminants through the subsurface in the event of a hazardous waste release; and a geotechnical and hydrogeologic investigation of the site as required show that the site is stable within Holocene time, and that subsidence into or collapse of subsurface solution cavities as a consequence of instability caused by liquefaction of overburden or by the presence of subsurface voids will not occur.

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Karst Terrain restrictions (continued)			<p>New non-land-based units shall not be located in a karst terrain unless the owner or operator demonstrates, to the satisfaction of the Commissioner, that:</p> <ol style="list-style-type: none"> 1. the site hydrogeologic characterization requirements have been met; 2. a geotechnical and hydrogeologic investigation of the site as required shows that the site is stable within Holocene time and subsidence into or collapse of subsurface solution cavities as a consequence of instability caused by liquefaction of overburden or by the presence of subsurface voids will not occur; or 3. where the requirements cannot be met, that appropriate engineered measures are applied to ensure the unit's structural integrity and to contain, mitigate, or eliminate the adverse effects to human health and the environment that may occur as a result of locating in karst terrain.

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Groundwater	PA	1200-1-14-.03(2)(e)	<p>New land-based units are prohibited (unless exempt from groundwater monitoring/correction requirements) unless the owner and operator can demonstrate, to the satisfaction of the Commissioner that:</p> <ol style="list-style-type: none"> the hydrogeology of the site can be adequately characterized. Characterization shall include the rate and direction of ground water flow with the uppermost aquifer and all interconnected aquifers using a ground water flow net; compliance with ground water monitoring requirements is maintained; and the technical practicability of a corrective action program at the site, based on the availability of current or new technologies that could practicably achieve groundwater remediation. <p>New land-based units located in vulnerable hydrogeologic settings overlying high-resource-value ground waters or the recharge zone of high-resource-value groundwaters are prohibited unless the following conditions are met by the owner or operator:</p> <ol style="list-style-type: none"> an extension of the post-closure-care period is granted by the Commissioner for such time as is necessary to protect human health and the environment; the unit contains only waste that has been treated using Best Demonstrated Available Technology; and the owner or operator can demonstrate, to the satisfaction of the Commissioner, that health-based criteria for those hazardous wastes or hazardous constituents of concern will not be exceeded beyond the limit of the waste management area in the event of a release, or that the owner or operator can implement an effective corrective action program within the time necessary to prevent contamination in the underlying aquifer from moving beyond the facility property boundary and endangering human health and the environment.

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Drinking water supplies	PA	1200-1-14-.03(2)(f)	<p>New land-based units shall be located at least:</p> <ul style="list-style-type: none"> C outside the lateral limits of the theoretical cone of depression (calculated at the design capacity of the existing pumping system) for any public or private drinking water supply well which withdraws water from the uppermost aquifer or any underlying aquifer which is hydraulically connected to the uppermost aquifer within this cone of depression; C two times the corrective action buffer zone distance from existing private drinking water supply wells; C five times the corrective action buffer zone distance from existing public water supply wells; C two times the corrective action buffer zone distance from any stream segments that are, relative to existing private drinking water supply intakes for impounded stream segments, within one mile upstream or downstream; and for non-impounded stream segments, within one mile upstream and 0.1 mile downstream; and C five times the corrective action buffer zone distance from any stream segments that are, relative to existing public water supply intakes for impounded stream segments, within two miles upstream and downstream; and for non-impounded stream segments, within two miles upstream and 0.2 mile downstream. <p>New non-land-based units shall be located at least:</p> <ul style="list-style-type: none"> C five hundred feet from any existing private drinking water supply well, except that a shorter distance shall be allowed if the owner or operator agrees to install, operate, and maintain a ground-water monitoring system and establishes a corrective action buffer zone between the unit and the facility property boundary; <p style="text-align: right;"><i>continued..</i></p>

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Drinking water supplies (continued)	PA	1200-1-14-.03(2)(f)	<p>C one thousand feet from any existing public water supply well, except that a shorter distance shall be allowed if the owner or operator agrees to install, operate, and maintain a ground-water monitoring system and establishes a corrective action buffer zone between the unit and the facility property boundary;</p> <p>C five hundred feet, measured upgradient along existing drainageways from the normal banks, from any stream segments that are, relative to existing private drinking water supply intakes for impounded stream segments, within one mile upstream or downstream; and, for non-impounded stream segments, within one mile upstream and 0.1 mile downstream; and</p> <p>C one thousand feet, measured upgradient along existing drainageways from the normal banks, from any stream segments that are, relative to existing public water supply intakes for impounded stream segments, within two miles upstream or downstream; and for non-impounded stream segments, within two miles upstream and 0.2 mile downstream.</p> <p>Transport vehicle parking areas (excluding driveways/access roads), loading/unloading areas, recycling units, and other areas/units (excluding analytical laboratories) where hazardous wastes are managed at a new facility but which are not land-based or non-land based units shall be subject to the set-back requirements for non-land-based units.</p> <p>These set-back requirements shall not apply to those water supply wells and intakes used to supply drinking water solely to the hazardous waste management facility itself, providing such are monitored on at least a quarterly basis and other measures taken as necessary to ensure a safe drinking water supply for employees.</p>

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Surface water	PA	1200-1-14-.03(2)(g)	<p>New land-based units shall be set back from streams, lakes, ponds, reservoirs, and other surface water bodies (except those constructed as part of the facility) by a distance at least equal to the corrective action buffer zone distance.</p> <p>New non-land-based units shall be located at least 200 feet, measured upgradient along existing drainageways from the normal banks, from streams, lakes, ponds, reservoirs, and other surface water bodies (except those constructed as part of the facility).</p> <p>Transport vehicle parking areas (excluding driveways/access roads), loading/unloading areas, recycling units, and other areas/units (excluding analytical laboratories) where hazardous wastes are managed at a new facility but which are not land-based or non-land-based units shall be subject to the same set-back requirements as non-land-based units.</p>
SEISMIC CONSIDERATIONS			
Placement of a facility over a fault	PA	1200-1-14-.03(2)(c)1-3 1200-1-11-.06(2)(a)	<p>New land-based and non-land-based units to be located in the vicinity of a fault along which movement during the Holocene period has occurred shall be located no closer than 200 feet (61 meters) to the fault, unless a site-specific demonstration is made to the commissioner and he/she is satisfied that an alternative distance is acceptable.</p> <p>Owners or operators of new land-based and non-land-based units that will be located within 3,000 feet of a lineament must demonstrate to the satisfaction of the Commissioner, that no faults along which movement during the Holocene has occurred are present within 200 feet of the unit, unless a site-specific demonstration is made to the commissioner and he/she is satisfied that an alternative distance is acceptable.</p>
Placement of a facility within a seismic impact zone	PA	1200-1-14-.03(2)(c)4	New land-based and non-land-based units located in a seismic impact zone shall demonstrate to the satisfaction of the Commissioner that the structural integrity of the unit will allow it to withstand damage caused by any ground shaking, liquefaction, or seismic wave motion exceeding the predicted maximum horizontal acceleration for the corresponding seismic impact zone, or that there is less than 10 percent probability that the maximum horizontal acceleration at the site will exceed 0.10g in 250 years.

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
FLOODING AND EROSION			
Floodplain restrictions	PA	1200-1-14-.03(2)(a) 1200-1-11-.06(2)(a)	<p>New land-based units shall not be located in 100-year floodplains.</p> <p>New non-land-based units may be located in 100-year floodplains if the owner or operator can demonstrate that the unit is designed, constructed, operated and maintained to prevent the washout of any hazardous waste by a 100-year flood, and to enable the unit to withstand the effects of erosion during its active life. Additionally, owners or operators must demonstrate that maintenance activities will repair controls after a flood.</p> <p>New non-land-based units shall not be located in the historical migration zone of 100-year floodplains.</p> <p>Proposed new commercial facilities must demonstrate that procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to flood waters.</p>
AIR			
No provisions found.			
DISTANCE LIMITATIONS/BUFFER ZONES			
<p>Note: The distance criteria shall apply to those wetlands, wells, streams, intake points, parks, structures and other protected entities as those entities exist on the date of original Part A application submittal (exclusive of voided Part A applications) for a proposed new commercial facility. The term “existing” is used to denote this.</p>			

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Placement of a facility over a fault	PA	1200-1-14-.03(2)(c)	<p>New land-based and non-land-based units to be located in the vicinity of a fault along which movement during the Holocene has occurred shall be located no closer than 200 feet (61 meters) to the fault, unless a site-specific demonstration is made to the commissioner New land-based and non-land-based units to be located in the vicinity of a fault along which movement during the Holocene has occurred shall be located no closer than 200 feet (61 meters) to the fault, unless a site-specific demonstration is made to the commissioner and he/she is satisfied that an alternative distance is acceptable.</p> <p>Owners or operators of new land-based and non-land-based units that will be located within 3,000 feet of a lineament must demonstrated to the satisfaction of the Commissioner, that no faults along which movement during the Holocene has occurred are present within 200 feet of the unit, unless a site-specific demonstration is made to the commissioner and he/she is satisfied that an alternative distance is acceptable.</p>
Corrective action buffer zone	PA	1200-1-14-.03(2)(e)3	<p>Owners or operators of new land-based units shall establish a dedicated buffer zone between the unit and the facility property boundary adequate to ensure that ground water time of travel, measured along a flow line at least 100 feet in length and originating at the base of the unit, allows adequate time to implement the corrective action response necessary to remedy a hazardous waste release to ground water and to mitigate, contain, or eliminate the release within the facility property boundary. Inability to establish a dedicated buffer zone will prohibit location of the facility at the site. The dedicated buffer zone shall meet the following criteria:</p> <ul style="list-style-type: none"> C It shall consist of an area of land between the unit and the facility property boundary that is owned by the owner or operator and serves as a separation distance between the unit and facility property boundary. The buffer zone shall be used for corrective action and not for the treatment, storage, or disposal of hazardous waste; C It shall serve as a buffer zone for as long as hazardous waste or hazardous constituents remain in the unit, and C It shall be recorded as a notation on the facility property deed as a dedicated portion of the facility property for the sole purpose for which it is intended as specified.

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Vertical buffer zone	PA	1200-1-14-.03(2)(e)5	<p>New land-based units shall be located and constructed such that there is, between the bottom of the unit's liner system and the seasonally high water elevation in the uppermost saturated zone underlying the unit, a buffer layer of natural and/or emplaced soil meeting one of the following descriptions:</p> <ol style="list-style-type: none"> 1. Ten feet thick, with a saturated hydraulic conductivity of 1×10^{-5} centimeters per second, or 2. Five feet thick, with a saturated hydraulic conductivity of 1×10^{-6} centimeters per second. <p>New non-land-based units shall be located and constructed such that there is, between the bottom of the unit's secondary containment system and the seasonably high water elevation in the uppermost saturated zone underlying the unit, one of the following:</p> <ol style="list-style-type: none"> 1. A buffer layer of natural and/or emplaced soil meeting one of the following descriptions: <ol style="list-style-type: none"> a. Four feet thick, with a saturated hydraulic conductivity of 1×10^{-5} centimeters per second, or b. Two feet thick, with a saturated hydraulic conductivity of 1×10^{-6} centimeters per second, or 2. A buffer layer of other material, mechanically separate from the secondary containment system, which the Commissioner determines to provide equivalent or superior protection to fluid movement.

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Drinking water	PA	1200-1-14-.03(2)(f)	<p>New land-based units shall be located at least:</p> <ul style="list-style-type: none"> C outside the lateral limits of the theoretical cone of depression (calculated at the design capacity of the existing pumping system) for any public or private drinking water supply well which withdraws water from the uppermost aquifer or any underlying aquifer which is hydraulically connected to the uppermost aquifer within this cone of depression; C two times the corrective action buffer zone distance from existing private drinking water supply wells; C five times the corrective action buffer zone distance from existing public water supply wells; C two times the corrective action buffer zone distance from any stream segments that are, relative to existing private drinking water supply intakes for impounded stream segments, within one mile upstream or downstream; and for non-impounded stream segments, within one mile upstream and 0.1 mile downstream, and C five times the corrective action buffer zone distance from any stream segments that are, relative to existing public water supply intakes for impounded stream segments, within two miles upstream and downstream; and for non-impounded stream segments, within two miles upstream and 0.2 mile downstream. <p>New non-land-based units shall be located at least:</p> <ul style="list-style-type: none"> C five hundred feet from any existing private drinking water supply well, except that a shorter distance shall be allowed if the owner or operator agrees to install, operate, and maintain a ground-water monitoring system and establishes a corrective action buffer zone between the unit and the facility property boundary; <p style="text-align: right;"><i>continued..</i></p>

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Drinking water (continued)	PA	1200-1-14-.03(2)(f)	<p>C one thousand feet from any existing public water supply well, except that a shorter distance shall be allowed if the owner or operator agrees to install, operate, and maintain a ground-water monitoring system and establishes a corrective action buffer zone between the unit and the facility property boundary;</p> <p>C five hundred feet, measured upgradient along existing drainageways from the normal banks, from any stream segments that are, relative to existing private drinking water supply intakes for impounded stream segments, within one mile upstream or downstream; and, for non-impounded stream segments, within one mile upstream and 0.1 mile downstream; and</p> <p>C one thousand feet, measured upgradient along existing drainageways from the normal banks, from any stream segments that are, relative to existing public water supply intakes for impounded stream segments, within two miles upstream or downstream; and for non-impounded stream segments, within two miles upstream and 0.2 mile downstream.</p> <p>Transport vehicle parking areas (excluding driveways/access roads), loading/unloading areas, recycling units, and other areas/units (excluding analytical laboratories) where hazardous wastes are managed at a new facility but which are not land-based or non-land based units shall be subject to the set-back requirements for non-land-based units.</p> <p>These set-back requirements shall not apply to those water supply wells and intakes used to supply drinking water solely to the hazardous waste management facility itself, providing such are monitored on at least a quarterly basis and other measures taken as necessary to ensure a safe drinking water supply for employees.</p>

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Surface waters	PA	1200-1-14-.03(2)(g)	<p>New land-based units shall be set back from streams, lakes, ponds, reservoirs, and other surface water bodies (except those constructed as part of the facility) by a distance at least equal to the corrective action buffer zone distance.</p> <p>New non-land-based units shall be located at least 200 feet, measured upgradient along existing drainageways from the normal banks, from streams, lakes, ponds, reservoirs, and other surface water bodies (except those constructed as part of the facility).</p> <p>Transport vehicle parking areas (excluding driveways/access roads), loading/unloading areas, recycling units, and other areas/units (excluding analytical laboratories) where hazardous wastes are managed at a new facility but which are not land-based or non-land-based units shall be subject to the same set-back requirements as non-land-based units.</p>
Location of facility related to scenic rivers	PA	<i>[11-13-111(b)(1)]</i> <i>[68-212-120]</i> <i>[68-212-223]</i>	No landfill for the disposal of hazardous wastes shall be permitted within two miles from the center of a Class II river on each side nor within two miles of the center of such river on each side in any county which is adjacent to such Class II river, notwithstanding the fact that the river is not designated as a scenic river in such adjacent county, if the river in such adjacent county flows into the county in which such river is designated as a Class II river.
Distances from other structures/areas	PA	1200-1-14-.03(2)(j)	<p>New commercial facilities must be screened from sight, or at sufficient distance as to be indistinguishable from the surrounding, from existing structures/areas, unless the owner or operator demonstrates to the satisfaction of the Commissioner that the facility and operations are consistent with the visual character of other surrounding structures and activities.</p> <p>New commercial facilities must be located, configured, designed, constructed, and/or operated such that transport vehicle parking areas (excluding driveways/access roads), loading and unloading areas, and other areas where mechanized (or other) noisy operations may take place do not cause a significant increase in the noise level at existing structure/area boundaries.</p> <p style="text-align: right;"><i>continued...</i></p>

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Distances from other structures/areas (continued)	PA	1200-1-14-.03(2)(j)	<p>These requirements apply to structures/areas such as:</p> <ul style="list-style-type: none"> C hospitals, nursing homes, or other institutions which house populations of the aged or sick; C schools, child-care centers, or other non-residential facilities where children spend substantial amounts of time, and surrounding areas of associate use (e.g., including playgrounds but excluding driveways and parking areas); C residences, and surrounding areas of associated use (e.g., including yards but excluding driveways, parking areas, farmlands, woodlots, etc.); C churches, and surrounding areas of associated use (e.g., including yards, playgrounds, and picnic areas, but excluding driveways and parking areas); and C structures used for public service, commercial retail, or commercial service purposes and frequented by the public. <p>New non-land-based units and other areas/units (other than land-based units) where hazardous wastes are managed (including transport vehicle parking lots but excluding driveways and access roads) shall be located at least 50 feet from the facility property line.</p>
OTHER HUMAN HEALTH CONSIDERATIONS			
No provisions found.			

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
ENVIRONMENTALLY SENSITIVE AREAS			
Endangered Species			
Location of a facility related to endangered species	PA	1200-1-14-.03(2)(i)	A new commercial facility must be located, designed, constructed, operated, maintained, closed, and (for disposal units) cared for during the post-closure period in a manner that does not cause or contribute to the taking of any endangered or threatened species of plants, fish or wildlife.
		1200-14-.03(4)(m)1	Owners and operators of a proposed new commercial facility must submit documentation demonstrating that the Tennessee Department of Conservation, U.S. Fish and Wildlife Service, Tennessee Wildlife Resources Agency and other agencies as appropriate were consulted relative to the identification of endangered or threatened species and their habitat, and the impacts of the proposed facility on such species and/or their habitat.
Critical Habitats			
Location of a facility related to critical habitat	PA	1200-1-14-.03(2)(i)	A new commercial facility must be located, designed, constructed, operated, maintained, closed, and (for disposal units) cared for during the post-closure period in a manner that does not result in the destruction or adverse modification of the critical habitat of endangered or threatened species.
Wetlands			
Wetland prohibition	PA	1200-1-.14-.03(2)(b)	New land-based and non-land-based units shall be prohibited in or adjacent to wetlands.
		1200-14-.03(4)(m)1	Owners or operators of proposed new land-based or non-land-based units must submit documentation indicating that the unit is not located in or adjacent to a wetland. This must include documentation demonstrating that the U.S. Fish and Wildlife Service and the Tennessee Department of Conservation were consulted with regard to this determination.

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Wild, Scenic or Recreational Areas			
Location of facility related to scenic, cultural and recreational areas	PA	1200-1-.14-.03(2)(h) 1200-1-14-.03(4)(m)1	New commercial facilities must be screened from sight, or at sufficient distance as to be indistinguishable from the surroundings, from the boundaries of such scenic, cultural, and recreational areas, unless the owner or operator demonstrates to the satisfaction of the Commissioner that the facility and operations are consistent with the visual character of other surrounding structures and activities. The facility must be located, configured, designed, constructed, and/or operated such that driveways, transport vehicle parking areas, loading and unloading areas, and other areas where mechanized (or other) noisy operations may take place do not cause a significant increase in the noise level at the boundaries of scenic, cultural, and recreational areas. Owners or operators of a proposed new commercial facility must submit documentation demonstrating that the Tennessee Department of Conservation and other agencies as appropriate were consulted relative to the identification of scenic, cultural, and recreational areas which might be impacted by the proposed facility.
Location of facility related to scenic rivers	PA	[11-13-111(b)(1)] [68-212-120] [68-212-223]	No landfill for the disposal of hazardous wastes shall be permitted within two miles from the center of a Class II river on each side nor within two miles of the center of such river on each side in any county which is adjacent to such Class II river, notwithstanding the fact that the river is not designated as a scenic river in such adjacent county, if the river in such adjacent county flows into the county in which such river is designated as a Class II river.
Approved Farmland Preservation Areas			
No provisions found.			

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Other			
Poor foundation conditions	PA	1200-1-14-.03(2)(d)1	Owners and operators of new land-based and non-land-based units to be located in areas where features exist which indicate that a natural or man-induced event (which may result in inadequate foundation support for the structural components of the unit) exists at, beneath, adjacent to, or in the area of the unit shall demonstrate, to the satisfaction of the Commissioner, that the problem conditions can and will be mitigated, or have been mitigated, using appropriate engineering methods.
Areas susceptible to mass movement	PA	1200-1-14-.03(2)(d)2	Owners and operators of new land-based and non-land-based units to be located in areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) shall demonstrate, to the satisfaction of the Commissioner, that appropriate engineering measures will be applied to ensure unit structural integrity and to mitigate the threats posed to human health and the environment by mass movement.
OTHER RESTRICTIONS			
Salt dome formations, salt bed formations, underground mines and caves	PA	1200-1-11-.06(2)	The placement of any noncontainerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave is prohibited. This requirement is the same as the Federal requirement at 40 CFR 264.18(c).

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Tennessee Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
ENVIRONMENTAL JUSTICE CONSIDERATIONS			
No provisions found, although it appears that efforts are underway, see http://www.state.tn.us/environment/epo/ej/index.html			
ECONOMIC CRITERIA			
Economic impact	PA	1200-1-14-.03(2)(m)	The owner or operator of a proposed new commercial facility must demonstrate to the satisfaction of the Commissioner that the adverse economic impacts of constructing and operating the proposed facility (at the selected site) on the local community and the surrounding communities have been minimized.
		1200-1-14-.03(4)(q)	<p>The owner or operator of a proposed new commercial facility must submit a report documenting the results of a study evaluating the economic impacts the proposed facility would have on the local community and surrounding communities. The economic impact shall be projected based on the following facts assessed over the period beginning with the initiation of construction and extending through the expected operating life of the facility or - for disposal facilities - through the post-closure care period:</p> <ul style="list-style-type: none">C effects on property values;C tax revenue to be generated and/or other direct compensation to the community;C effects on employment (e.g., increases or decreases in job opportunities and/or personal incomes);C increases in public expenditures for services such as police protection, fire and emergency response, sewers, water, electricity, roads, schools, etc.;C decreases in hazardous waste management costs to local, State, or regional generators; andC attractiveness to existing or potential industrial neighbors.
OTHER CRITERIA			
No provisions found.			

¹PPA = Pre-permit application provision

PA = Post permit application, but prior to draft permit provision

PDP = Post draft permit provision

PP= Post permit issuance

provision

²Citations bracketed in italics (e.g., [361.063]) indicate provisions from the State's statutes; citations in regular print are from the State's regulations.